

AMENDED IN SENATE MAY 24, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 820

Introduced by Assembly Member ~~Hall~~ Gomez

February 21, 2013

An act to amend Section 19805 of the Business and Professions Code, and to amend Section 337j of the Penal Code, relating to gaming.

LEGISLATIVE COUNSEL’S DIGEST

AB 820, as amended, ~~Hall~~ Gomez. Gaming: Gambling Control Act.

The Gambling Control Act provides for the licensure of certain individuals and establishments involved in various gambling activities, and for the regulation of those activities, by the California Gambling Control Commission. For purposes of the act, existing law defines “key employee” as any natural person employed in the operation of a gambling enterprise in a supervisory capacity or empowered to make discretionary decisions that regulate gambling operations, including, among others, pit bosses, shift bosses, credit executives, cashier operations supervisors, gambling operation managers and assistant managers, and managers or supervisors of security employees.

This bill would revise the definition of “key employee” to mean any natural person employed in the operation of a gambling enterprise in a supervisory capacity or empowered to make discretionary decisions with regard to gambling operations. The bill would also delete pit bosses and shift bosses from the definition of “key employee” and would instead include shift managers and surveillance managers and supervisors in these provisions.

Existing law regulates the collection of player fees in gambling establishments. Existing law prohibits a player fee from being calculated

as a fraction or percentage of wagers made or winnings earned. Existing law requires the amount of fees to be charged for all wagers to be determined prior to the start of play of any hand or round, but authorizes a gambling establishment to waive collection of the fee or portion of the fee in any hand or round of play after the hand or round has begun pursuant to the published rules of the game and the notice provided to the public. Existing law also authorizes flat fees on each wager to be assessed at different collection rates, but specifies that no more than 5 collection rates may be established per table.

This bill would delete the provisions authorizing a gambling establishment to waive the collection of fees and would also delete the provisions authorizing the assessment of flat fees for each wager. The bill would instead specify that in games that feature a player-dealer position, the player-dealer shall be required to pay a fee to the gambling establishment for each hand or round of play and each player shall be required to pay a fee from his or her own funds to the gambling establishment for each wager made in every hand or round of play. The bill would require all fees to be approved by the department, but would prohibit the department from approving a fee schedule for any player-dealer game unless the fee paid by each player on each wager is not less than $\frac{1}{3}$ of the amount of the fee paid by the player-dealer in each hand or round of play.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 19805 of the Business and Professions
- 2 Code is amended to read:
- 3 19805. As used in this chapter, the following definitions shall
- 4 apply:
- 5 (a) "Affiliate" means a person who, directly or indirectly through
- 6 one or more intermediaries, controls, is controlled by, or is under
- 7 common control with, a specified person.
- 8 (b) "Applicant" means any person who has applied for, or is
- 9 about to apply for, a state gambling license, a key employee license,
- 10 a registration, a finding of suitability, a work permit, a
- 11 manufacturer's or distributor's license, or an approval of any act
- 12 or transaction for which the approval or authorization of the

1 commission or department is required or permitted under this
2 chapter.

3 (c) “Banking game” or “banked game” does not include a
4 controlled game if the published rules of the game feature a
5 player-dealer position and provide that this position must be
6 continuously and systematically rotated amongst each of the
7 participants during the play of the game, ensure that the
8 player-dealer is able to win or lose only a fixed and limited wager
9 during the play of the game, and preclude the house, another entity,
10 a player, or an observer from maintaining or operating as a bank
11 during the course of the game. For purposes of this section, it is
12 not the intent of the Legislature to mandate acceptance of the deal
13 by every player if the department finds that the rules of the game
14 render the maintenance of or operation of a bank impossible by
15 other means. The house shall not occupy the player-dealer position.

16 (d) “Chief” means the head of the entity within the department
17 that is responsible for fulfilling the obligations imposed upon the
18 department by this chapter.

19 (e) “Commission” means the California Gambling Control
20 Commission.

21 (f) “Controlled gambling” means to deal, operate, carry on,
22 conduct, maintain, or expose for play any controlled game.

23 (g) “Controlled game” means any controlled game, as defined
24 by subdivision (e) of Section 337j of the Penal Code.

25 (h) “Department” means the Department of Justice.

26 (i) “Director” means any director of a corporation or any person
27 performing similar functions with respect to any organization.

28 (j) “Finding of suitability” means a finding that a person meets
29 the qualification criteria described in subdivisions (a) and (b) of
30 Section 19857, and that the person would not be disqualified from
31 holding a state gambling license on any of the grounds specified
32 in Section 19859.

33 (k) “Game” and “gambling game” means any controlled game.

34 (l) “Gambling” means to deal, operate, carry on, conduct,
35 maintain, or expose for play any controlled game.

36 (m) “Gambling enterprise” means a natural person or an entity,
37 whether individual, corporate, or otherwise, that conducts a
38 gambling operation and that by virtue thereof is required to hold
39 a state gambling license under this chapter.

(n) “Gambling enterprise employee” means any natural person employed in the operation of a gambling enterprise, including, without limitation, dealers, floor personnel, security employees, countroom personnel, cage personnel, collection personnel, surveillance personnel, data-processing personnel, appropriate maintenance personnel, waiters and waitresses, and secretaries, or any other natural person whose employment duties require or authorize access to restricted gambling establishment areas.

(o) “Gambling establishment,” “establishment,” or “licensed premises,” except as otherwise defined in Section 19812, means one or more rooms where any controlled gambling or activity directly related thereto occurs.

(p) “Gambling license” or “state gambling license” means any license issued by the state that authorizes the person named therein to conduct a gambling operation.

(q) “Gambling operation” means exposing for play one or more controlled games that are dealt, operated, carried on, conducted, or maintained for commercial gain.

(r) “Gross revenue” means the total of all compensation received for conducting any controlled game, and includes interest received in payment for credit extended by an owner licensee to a patron for purposes of gambling, except as provided by regulation.

(s) “Hours of operation” means the period during which a gambling establishment is open to conduct the play of controlled games within a 24-hour period. In determining whether there has been expansion of gambling relating to “hours of operation,” the department shall consider the hours in the day when the local ordinance permitted the gambling establishment to be open for business on January 1, 1996, and compare the current ordinance and the hours during which the gambling establishment may be open for business. The fact that the ordinance was amended to permit gambling on a day, when gambling was not permitted on January 1, 1996, shall not be considered in determining whether there has been gambling in excess of that permitted by Section 19961.

(t) “House” means the gambling enterprise, and any owner, shareholder, partner, key employee, or landlord thereof.

(u) “Independent agent,” except as provided by regulation, means any person who does either of the following:

- (1) Collects debt evidenced by a credit instrument.

1 (2) Contracts with an owner licensee, or an affiliate thereof, to
2 provide services consisting of arranging transportation or lodging
3 for guests at a gambling establishment.

4 (v) “Initial license” means the license first issued to a person
5 authorizing that person to commence the activities authorized by
6 that license.

7 (w) “Institutional investor” means any retirement fund
8 administered by a public agency for the exclusive benefit of federal,
9 state, or local public employees, any investment company
10 registered under the Investment Company Act of 1940 (15 U.S.C.
11 Sec. 80a-1 et seq.), any collective investment trust organized by
12 banks under Part Nine of the Rules of the Comptroller of the
13 Currency, any closed-end investment trust, any chartered or
14 licensed life insurance company or property and casualty insurance
15 company, any banking and other chartered or licensed lending
16 institution, any investment advisor registered under the Investment
17 Advisors Act of 1940 (15 U.S.C. Sec. 80b-1 et seq.) acting in that
18 capacity, and other persons as the commission may determine for
19 reasons consistent with the policies of this chapter.

20 (x) “Key employee” means any natural person employed in the
21 operation of a gambling enterprise in a supervisory capacity or
22 empowered to make discretionary decisions with regard to
23 gambling operations, including, without limitation, shift managers,
24 credit executives, cashier operations supervisors, gambling
25 operation managers and assistant managers, managers or
26 supervisors of security employees, surveillance managers or
27 supervisors, or any other natural person designated as a key
28 employee by the department for reasons consistent with the policies
29 of this chapter.

30 (y) “Key employee license” means a state license authorizing
31 the holder to be employed as a key employee.

32 (z) “License” means a gambling license, key employee license,
33 or any other license issued by the commission pursuant to this
34 chapter or regulations adopted pursuant to this chapter.

35 (aa) “Licensed gambling establishment” means the gambling
36 premises encompassed by a state gambling license.

37 (ab) “Limited partnership” means a partnership formed by two
38 or more persons having as members one or more general partners
39 and one or more limited partners.

1 (ac) “Limited partnership interest” means the right of a general
2 or limited partner to any of the following:

3 (1) To receive from a limited partnership any of the following:

4 (A) A share of the revenue.

5 (B) Any other compensation by way of income.

6 (C) A return of any or all of his or her contribution to capital of
7 the limited partnership.

8 (2) To exercise any of the rights provided under state law.

9 (ad) “Owner licensee” means an owner of a gambling enterprise
10 who holds a state gambling license.

11 (ae) “Person,” unless otherwise indicated, includes a natural
12 person, corporation, partnership, limited partnership, trust, joint
13 venture, association, or any other business organization.

14 (af) “Player” means a patron of a gambling establishment who
15 participates in a controlled game.

16 (ag) “Player-dealer” and “controlled game featuring a
17 player-dealer position” refer to a position in a controlled game, as
18 defined by the approved rules for that game, in which seated player
19 participants are afforded the temporary opportunity to wager
20 against multiple players at the same table, provided that this
21 position is rotated amongst the other seated players in the game.

22 (ah) “Publicly traded racing association” means a corporation
23 licensed to conduct horse racing and simulcast wagering pursuant
24 to Chapter 4 (commencing with Section 19400) whose stock is
25 publicly traded.

26 (ai) “Qualified racing association” means a corporation licensed
27 to conduct horse racing and simulcast wagering pursuant to Chapter
28 4 (commencing with Section 19400) that is a wholly owned
29 subsidiary of a corporation whose stock is publicly traded.

30 (aj) “Renewal license” means the license issued to the holder
31 of an initial license that authorizes the license to continue beyond
32 the expiration date of the initial license.

33 (ak) “Work permit” means any card, certificate, or permit issued
34 by the commission, or by a county, city, or city and county, whether
35 denominated as a work permit, registration card, or otherwise,
36 authorizing the holder to be employed as a gambling enterprise
37 employee or to serve as an independent agent. A document issued
38 by any governmental authority for any employment other than
39 gambling is not a valid work permit for the purposes of this chapter.

40 *SEC. 2. Section 337j of the Penal Code is amended to read:*

1 337j. (a) It is unlawful for any person, as owner, lessee, or
2 employee, whether for hire or not, either solely or in conjunction
3 with others, to do any of the following without having first
4 procured and thereafter maintained in effect all federal, state, and
5 local licenses required by law:

6 (1) To deal, operate, carry on, conduct, maintain, or expose for
7 play in this state any controlled game.

8 (2) To receive, directly or indirectly, any compensation or
9 reward or any percentage or share of the revenue, for keeping,
10 running, or carrying on any controlled game.

11 (3) To manufacture, distribute, or repair any gambling equipment
12 within the boundaries of this state, or to receive, directly or
13 indirectly, any compensation or reward for the manufacture,
14 distribution, or repair of any gambling equipment within the
15 boundaries of this state.

16 (b) It is unlawful for any person to knowingly permit any
17 controlled game to be conducted, operated, dealt, or carried on in
18 any house or building or other premises that he or she owns or
19 leases, in whole or in part, if that activity is undertaken by a person
20 who is not licensed as required by state law, or by an employee of
21 that person.

22 (c) It is unlawful for any person to knowingly permit any
23 gambling equipment to be manufactured, stored, or repaired in
24 any house or building or other premises that the person owns or
25 leases, in whole or in part, if that activity is undertaken by a person
26 who is not licensed as required by state law, or by an employee of
27 that person.

28 (d) Any person who violates, attempts to violate, or conspires
29 to violate this section shall be punished by imprisonment in a
30 county jail for not more than one year or by a fine of not more than
31 ten thousand dollars (\$10,000), or by both imprisonment and fine.
32 A second offense of this section is punishable by imprisonment in
33 a county jail for a period of not more than one year or in the state
34 prison or by a fine of not more than ten thousand dollars (\$10,000),
35 or by both imprisonment and fine.

36 (e) (1) As used in this section, "controlled game" means any
37 poker or Pai Gow game, and any other game played with cards or
38 tiles, or both, and approved by the Department of Justice, and any
39 game of chance, including any gambling device, played for

1 currency, check, credit, or any other thing of value that is not
2 prohibited and made unlawful by statute or local ordinance.

3 (2) As used in this section, “controlled game” does not include
4 any of the following:

5 (A) The game of bingo conducted pursuant to Section 326.3 or
6 326.5.

7 (B) Parimutuel racing on horse races regulated by the California
8 Horse Racing Board.

9 (C) Any lottery game conducted by the California State Lottery.

10 (D) Games played with cards in private homes or residences,
11 in which no person makes money for operating the game, except
12 as a player.

13 (f) This subdivision is intended to be dispositive of the law
14 relating to the collection of player fees in gambling establishments.
15 A fee ~~may~~ *shall* not be calculated as a fraction or percentage of
16 wagers made or winnings earned. The amount of fees charged for
17 all wagers shall be determined prior to the start of play of any hand
18 or round. ~~However, the gambling establishment may waive~~
19 ~~collection of the fee or portion of the fee in any hand or round of~~
20 ~~play after the hand or round has begun pursuant to the published~~
21 ~~rules of the game and the notice provided to the public. The actual~~
22 ~~collection~~ *The actual payment* of the fee may occur before or after
23 the start of play. *In games that feature a player-dealer position,*
24 *the player-dealer shall pay a fee to the gambling establishment*
25 *for each hand or round of play, and each player shall pay a fee*
26 *from his or her own funds to the gambling establishment for each*
27 *wager made in every hand or round of play. All fees shall be*
28 *approved by the department. The department shall not approve a*
29 *fee schedule for any player-dealer game unless the fee paid by*
30 *each player on each wager is not less than one-third of the amount*
31 *of the fee paid by the player-dealer in each hand or round of play.*
32 Ample notice shall be provided to the patrons of gambling
33 establishments relating to the assessment of fees. ~~Flat fees~~ *Fees*
34 on each wager may be assessed at different collection rates, but
35 no more than five collection rates may be established per table.
36 ~~However, if the gambling establishment waives its collection fee,~~
37 ~~this fee does not constitute one of the five collection rates.~~